

MILMAN LABUDA LAW GROUP PLLC

3000 MARCUS AVENUE
SUITE 3W8
LAKE SUCCESS, NY 11042

TELEPHONE (516) 328-8899
FACSIMILE (516) 328-0082

Author: Joseph M. Labuda - Member
Direct E-Mail Address: joe@mllaborlaw.com
Direct Dial: (516) 303-1380

January 12, 2024

Via ECF

Honorable Taryn A. Merkl, U.S.M.J.
United States District Court Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Star Auto Sales of Bayside, Inc., *et al.* v. Voynow, Bayard, Whyte and Co., LLP
("Voynow"), *et al.*
Case No.: 1:18-cv-5775 (ERK) (TAM)**

Dear Judge Merkl:

PLAINTIFFS' POSITION

This firm represents the Plaintiffs ("Star") in the above referenced matter. We are writing to inform the Court of the status of discovery as per the Court's order dated December 13, 2023. There are three (3) remaining discovery disputes that the parties are attempting to resolve.

First, there is an outstanding discovery dispute concerning the content and production of Voynow's review checklist. The parties have met and conferred and Voynow represented that it would likely identify the specific PPC/Thomson Reuters Review Checklist it used (which is currently unidentifiable) by January 18 and if Star is able to access same, we are hopeful of reaching a resolution by the end of next week.

Second, there are two (2) outstanding discovery issues concerning the deposition of one of Voynow's expert, Vincent Petruzzello. The parties met and conferred and Voynow represented that it would identify the documents reviewed by the expert by January 18 and, as such, we are hopeful of reaching a resolution on this issue. However, on the second issue as to the production of the report reviewed and referenced during Petruzzello's deposition, the parties have not been able to reach any agreement, and the parties anticipate filing a joint letter concerning the dispute next week for the Court's consideration.

Accordingly, discovery is not closed until these issues are fully resolved.

DEFENDANTS' POSITION

We disagree with Plaintiffs' representations set forth above as to remaining discovery disputes. The parties did meet and confer yesterday and Defendants agreed to provide Plaintiffs

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with supplemental information next week as to the checklist issue and bates numbers of certain documents reviewed by an expert. There is only one matter in dispute. Plaintiffs have now requested that Defendants' expert Vincent Petruzzello produce a 2013 expert report he authored in an unrelated matter and Defendants have denied this request. Defendants dispute the assertion that Mr. Petruzzello "reviewed" this 2013 report at his deposition or that it in any way relates to his opinions in this case. Subject to this sole remaining dispute and pursuant to this Court's December 13, 2023 Order, Defendants are writing to advise that discovery is closed and they anticipate filing for summary judgment in accordance with the Court's deadline.

We thank the Court for its time and consideration in this matter.

Respectfully submitted,
/s/ Joseph M. Labuda
Joseph M. Labuda

Cc: All counsel of record